

## National Science Foundation

## § 615.3

Executive Committee is meeting pursuant to its authority to act on behalf of the Board.

### PART 615—TESTIMONY AND PRODUCTION OF RECORDS

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615.1 Purpose.

615.2 Applicability.

615.3 Definitions.

615.4 Legal proceedings before NSF or in which the United States is a party.

615.5 Legal proceedings between private litigants: Testimony and production of documents.

615.6 Legal proceedings between private litigants: Procedure when demand is made.

615.7 Legal proceedings between private litigants: Office of Inspector General employees.

AUTHORITY: 42 U.S.C. 1870(a).

SOURCE: 59 FR 44056, Aug. 26, 1994, unless otherwise noted.

#### § 615.1 Purpose.

(a) This part sets forth policies and procedures to be followed when, in connection with a legal proceeding, an NSF employee is issued a demand to provide testimony or produce official records and information.

(b) The provisions of this part are intended to promote economy and efficiency in NSF's programs and operations; minimize the possibility of involving NSF in controversial issues not related to its functions; maintain the impartiality of NSF among private litigants; and protect sensitive, confidential information and the deliberative process.

(c) This part is not intended to and does not waive the sovereign immunity of the United States.

(d) This part is intended only to provide guidance for the internal operations of NSF, and is not intended to, and does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States.

#### § 615.2 Applicability.

This part applies to demands and requests for factual or expert testimony or for official records or information in legal proceedings, whether or not the

United States is a party, except that it does not apply to:

(a) Demands upon or requests for an NSF employee to testify as to facts or events that are in no way related to his or her official duties or to the functions of NSF,

(b) Demands upon or requests for a former NSF employee to testify as to matters in which the former employee was not directly or materially involved while at NSF,

(c) Demands upon or requests for an NSF reviewer to testify as to matters not directly related to that individual's employment by or service to NSF, and

(d) Congressional demands and requests for testimony or records.

#### § 615.3 Definitions.

(a) *Demand*—A subpoena, order, or other demand of a court or other competent authority for the production of records or for the appearance and testimony of an NSF employee, issued in a legal proceeding between private litigants.

(b) *Foundation* or *NSF* means the National Science Foundation.

(c) *General Counsel* means the General Counsel of the Foundation, or any person to whom the General Counsel has delegated authority under this part.

(d) *Legal proceeding* means any proceeding before a court of law, administrative board or commission, hearing officer, or other body conducting a legal or administrative proceeding.

(e) *Official records and information* means all documents and material which are records of the Foundation under the Freedom of Information Act, 5 U.S.C. 552; all other records contained in NSF's files; and all other information or material acquired by an NSF employee in the performance of his or her official duties or because of his or her official status.

(f) *NSF employee or employee* means any present or former officer or employee of NSF; any other individual hired through contractual agreement by or on behalf of NSF, or who has performed or is performing services under such an agreement for NSF; and any individual who served or is serving on any advisory committee or in any advisory capacity, whether formal or informal.